



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
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October 22, 2020

**By ECF**

The Honorable Gary L. Sharpe  
Senior United States District Judge  
James T. Foley U.S. Courthouse  
445 Broadway, Room 112  
Albany, NY 12207

Re: *Lebovits et al v. Cuomo et al*; Docket No 20-CV-01284 (GLS)(DJS)

Your Honor:

I am an Assistant Corporation Counsel in the office of James E. Johnson, Corporation Counsel of the City of New York, attorney for defendants Bill de Blasio, the City of New York, and the New York City Department of Health and Mental Hygiene (“City defendants”) in the above-referenced matter. A motion for my admission *pro hac vice* has been filed and is pending approval. I am writing to respectfully request an extension of time to respond to the motion seeking a temporary restraining order and preliminary injunction in the above-referenced matter. Opposition to Plaintiffs’ motion is due tomorrow (October 23) at 5 P.M.. The City defendants are respectfully requesting until November 13, 2020 to file their response to the motion.

The above referenced case alleges that Executive Order 202.68 (the “Executive Order”) violates Plaintiffs’ Free Exercise of Clause by closing a private Jewish school in an area that had increased COVID-19 positivity rates (or a “red zone”). As Your Honor may be aware, Governor Cuomo announced yesterday that certain red zones will become yellow zones, which allows schools to be open.<sup>1</sup> The red zone in which the school at issue is located (Far Rockaways, Queens) has become a yellow zone. Thus, the school at issue may open effective Monday,

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<sup>1</sup> See <https://forward.ny.gov/> for the updated maps, and <https://www.governor.ny.gov/news/governor-cuomo-details-covid-19-micro-cluster-metrics> for the announcement and updated information on the changes to the zones.

October 26, 2020, a day earlier than the date by which Plaintiffs indicated the school was set to reopen.

As Plaintiffs' school will now be able to open, it is the City's position that their motion for a TRO and preliminary injunction is moot. Consequently, the City defendants requested that Plaintiffs withdraw their motion. This evening Plaintiffs' counsel informed the defendants' counsel that they will not be pursuing the TRO but will continue to pursue their motion for a preliminary injunction. I inquired whether Plaintiffs intended to amend their complaint and motion given the change in facts, and attempted to work out a briefing schedule with them. Unfortunately, I have not yet received a response. However, given tomorrow's deadline and the fact that I will be appearing before Your Honor tomorrow morning on *Soos et al v. Cuomo et al*, I felt it was necessary to proceed with this request this evening. Counsel for the State joins in this request.

As the school at issue in this case may reopen on October 26, 2020, there is no longer any urgency in the resolution of this motion. Thus, I respectfully request that the Court extend the defendants' time to respond to the pending motion to November 13, 2020.

Respectfully submitted,

/s/

Melanie V. Sadok  
Assistant Corporation Counsel  
*application for admission pro hac  
vice pending*

cc: **By ECF**

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